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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212024
Party	Defendant Brooks Entertainment Inc.
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Submission	Motion to Amend/Amended Answer or Counterclaim
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Date	10/29/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Opposition No.: 91212024

In the Matter of Application
Serial No. 85/551,808

For the mark: “S.O.B.”

Filed on: February 24, 2012

Published in the Official Gazette on:
July 23, 2013

Opposition No. 91212024

REPUBLIC TECHNOLOGIES (NA), LLC

Opposer,

v.

BROOKS ENTERTAINMENT, INC.

Applicant.

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION FOR
LEAVE TO FILE A SECOND AMENDED NOTICE OF OPPOSITION**

I. INTRODUCTION

In the event that Applicant’s Motion To Amend Its Application (“Applicant’s Motion”) is granted by the Board, Opposer’s Motion For Leave To File an Amended Notice of Opposition (“Opposer’s Motion”) must be denied since it will not be legally sufficient.

II. LEGAL ARGUMENT

While the Board is generally liberal in granting leave to amend, some limitations do apply, such as “where the moving party seeks to add a new claim or defense, and the

proposed pleading thereof is legally insufficient, or would serve no useful purpose, the Board normally will deny the motion for leave to amend.” T.B.M.P. § 507.02.

If the Board grants Applicant’s Motion, then Opposer’s Motion will be based on a fraud claim that is legally insufficient. Applicant’s Motion is to amend its application to an intent-to-use application for strategic purposes in this proceeding, namely to clarify the claims. Applicant’s Motion was a strategic decision to help move this proceeding in the direction that Applicant believed the Board intended with its ruling, to focus on the likelihood of confusion claim.

If the Board grants Applicant’s Motion, Applicant respectfully requests that the Board deny Opposer’s Motion since whether Applicant’s early sales constituted “use in commerce”, and statements related thereto, would be moot.

Dated: October 29, 2014

Respectfully submitted,

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Attorneys for Brooks Entertainment, Inc.,
“Brooks”

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR LEAVE TO FILE A SECOND AMENDED NOTICE OF OPPOSITION was served via U.S. Mail, postage prepaid, on this 29th day of October 2014, upon the attorney of record for Opposer:

Antony J. McShane
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2 North LaSalle Street, Suite 1700
Chicago, Illinois 60602

By: /Richard B. Jefferson/
Richard B. Jefferson

CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR LEAVE TO FILE A SECOND AMENDED NOTICE OF OPPOSITION has been filed electronically with the Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on October 29th, 2014.

By: /Richard B. Jefferson/
 Richard B. Jefferson

Date: October 29, 2014